

REMARKS IN SUPPORT OF PATENTABILITY

Respecting the claim rejections made under 35 USC 102(b) based on an alleged anticipation by German patent application 4300060, applicant has amended the claims to recite that the passage of materials through the tubular housing is a “linear” passage and that the material passes “serially” from the heating zone to the drying zone. This is not the case with the cited German reference in which heating air supplied by blower 3 in the direction indicated by arrow 23 with the heated air exhausting into the material to be heated at the bottom of conduits 4 and 5. The material then has the heating air flow through the material as indicated by arrows 35 with the air flowing upward for recycling by blower 3 to perform further heating.

In no way can the travel of the material within the apparatus of German 4300060 be characterized as “linear” as claims 5, 7 and 8 have been amended. Accordingly, applicant respectfully believes that claims 5, 7 and 8 are patentably distinguishable over German 4300060 and that the 35 USC 102(b) anticipation rejection should be withdrawn. Notification of the same is respectfully solicited.

Respecting the rejection of claims 9 and 11 through 17 on the basis of German 4300060 with some of the rejections also being premised on Wood, applicant believes the examiner has misread the German patent when the examiner contends that the manifold means, recited in applicant’s claim 9, corresponds to item 17 in the German patent. Item 17, by applicant’s interpretation, is not a manifold for directing granular materials between different chambers but rather is a manifold for flow of air, namely heating air into the appropriate selected chambers. Accordingly, applicant does not believe that German 4300060 discloses applicant’s invention substantially as claimed, as contended by the examiner.

Applicant traverses the rejection of claims 11 through 16 made under 35 USC 103 on the basis of the German patent in view of Wood. Applicant respectfully submits that there is no teaching or suggestion of combining wood with the German patent. Indeed, the German patent, by its very construction, teaches away from the use of any type of valve, as is contended by the examiner when citing the Wood reference against applicant's claims. The German patent, with a solid apparently imperforate bottom plate 29, clearly teaches away from the use of any type of valve, contrary to the examiner's view. Accordingly, applicant respectfully submits that the combination of the German patent and Wood are improper and that a claim rejection based thereon should not stand. Applicant respectfully solicits reconsideration and withdrawal of the rejection of claims 11 through 16 based on the combination of the German patent and Wood.

Applicant takes the same position respecting claim 17 in light of the imperforate bottom plate in the German patent. Applicant respectfully submits that this is inconsistent with any cabinet or door opening such as the access door allegedly disclosed by Raker. Reconsideration and withdrawal of the rejection of claim 17 under 35 USC 103 is respectfully solicited.

Concerning the restriction requirement and the continuing imposition of the same, applicant respectfully submits the examiner was misinformed when the examiner speculated that "granular material can be softened by partially melting the granular material". This would be contrary to the purpose of applicant's invention. The whole purpose of applicant's invention is to deliver dry, solid granular material to either a gravimetric blender or a molding press or an extrusion device, in which the dried pellets of granular resin material may be molded or extruded. In either molding or extrusion it defeats the process if the material has been partially softened before entering the molding press or the extruder. Accordingly, the examiner's view in this area is respectfully submitted to be wrong.

Respecting the examiner's assertion that the examiner fulfilled his requirements under Section 806.05c of the Manual of Patent Examining Procedure, applicant respectfully notes that for a showing of distinctness, there must be always a showing that the groups of claims are patentably distinct one from another. This the examiner has not done.

Respecting the inventions of claims of groups 1 and 4, applicant respectfully submits that any fair reading of those two groups of claims side by side will show the relationship between the two groups.

Applicant specifically takes issue with the examiner's assertion that the presentation of verbatim portions of the Manual of Patent Examining Procedure was made "to lengthen his response". This is incorrect. It is perfectly permissible, indeed well accepted in legal writing, to quote verbatim from sources of authority. This is done all the time. Language from cases is conventionally placed into briefs where litigants are trying to make a particular point and have found case with language supporting the litigant's point.

The examiner's repeated contentions that applicant makes conclusory statements and has not supported of these statements with facts is simply not the case. Applicant is entitled to make arguments against the restriction requirement and to rely on anything in the record in support of those arguments. This is what applicant has done. Applicant respectfully submits that the restriction requirement should be reconsidered and withdrawn.

Regarding the economic argument, it is unrealistic for the examiner to suggest that the applicant should prosecute the application pro se. No lay person having no background in patent law could expected to wind one's way through the restriction requirement levied by the examiner and understand that requirement or the basis for it. Moreover, abandoning the application is not an option; this application is directed to a commercially very successful and important product of

applicant's company. Finding an attorney that charges lower fees may be an option but if one wants vigorous advocacy, there is a cost associated with that.

All in all, the examiner is respectfully requested to reconsider and withdraw the examiner's restriction requirement in this case.

To the extent there is any fee required in connection with the receipt, acceptance and/or consideration of this paper and/or any accompanying papers submitted herewith, please charge all such fees to Deposit Account 50-1943.

Respectfully submitted,

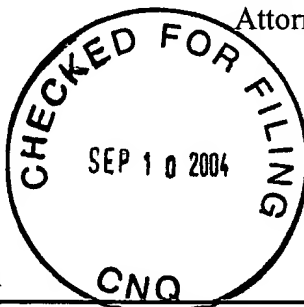
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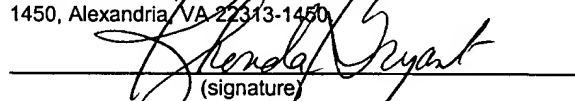
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BY: RHONDA BRYANT

DATE: SEPTEMBER 10, 2004